

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CRIMINAL APPLICATION No. 1580 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE K.M.MEHTA**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ? **-No.**
- 2 To be referred to the Reporter or not ? **-No.**
- 3 Whether their Lordships wish to see the fair copy of the judgment ? **-No.**
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? **-No.**
- 5 Whether it is to be circulated to the civil judge ? **-No.**

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CHANDRASHEKHAR @ SHEKHAR OMPRAKASH VARMA - Applicant(s)**Versus****STATE OF GUJARAT & 2 - Respondent(s)**

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Appearance :

MS SUBHADRA G PATEL for Applicant(s) : 1,
 PUBLIC PROSECUTOR for Respondent(s) : 1,
 RULE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.M.MEHTA**Date : 29/12/2005****ORAL JUDGMENT**

1.Chandrashekhar alias Shekhar Omprakash Varma,
 petitioner has filed this petition under Article 226 of
 the Constitution of India for quashing and setting

aside the show cause notice dated 27/11/2002 along with impugned order of externment passed by the Deputy Commissioner of Police, Ahmedabad, respondent no.2 dated 5/4/2004 and order of Appeal dated 29/10/2005 passed by the Secretary, Home Department, Sachivalaya, Gandhinagar, respondent no.3 respectively. Petition was filed on 18/11/2005.

2.On 22/11/2005, this Court (Coram:K.M.Mehta, J.) has issued rule which was returnable on 22/11/2005 which was returnable on 19/12/2005. On behalf of respondent, Mr.L.R.Pujari, learned APP appears so, with consent of parties, matter has been taken up for hearing to this Court.

3.Ms.S.G.Patel, learned advocate appears for the petitioner. She has stated that though there are several grounds, she has confined to the ground of delay. In this case, the authority has issued show cause notice on 27/11/2002. Thereafter, the petitioner has filed his reply. The authority has passed an order of externment on 5/4/2004. Though there is delay in passing the order, the authority has not given any reasons as to why there is a delay in passing the

order. The authority has not filed any affidavit to explain the delay.

4. In view of the judgment of this Court in the case of Dilaji Bharthaji Vihol v. Deputy Commissioner of Police and another, in Special Criminal Application No.1451 of 2005 decided by this Court (Coram:K.M.Mehta, J.) on 1/12/2005 and judgment of this Court (Coram:K.M.Mehta, J.) in Special Criminal Application No.1547 of 2005 decided today, the petition is required to be allowed.

5. In view of the aforesaid reasons, petition is allowed. Order of externment dated 5/4/2004 is quashed and set aside and order dated 29/10/2005, confirming the order of externment is also quashed and set aside. Rule is made absolute with no order as to costs. Direct service is permitted.

(K.M.MEHTA, J.)

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